Analysis Documentation

Notice of Proposed Rulemaking

DEEPWATER PORTS
33 CFR subchapter NN

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Prepared by United States Coast Guard
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EXECUTIVE SUMMARY

The Coast Guard proposes to revise 33 CFR subchapter NN, which prescribes regulations for the licensing, construction, design, and operation of deepwater ports. These regulations are over 25 years old, and the proposed rulemaking is necessary to update the regulations with current technology and industry standards. The proposal would also align particular regulations for other Outer Continental Shelf (OCS) facilities. The primary proposed changes for deepwater ports include lifesaving, workplace safety and health, firefighting and fire-protection equipment, and structural fire protection.

Currently, there is only one licensed deepwater port, which is the Louisiana Offshore Oil Port (LOOP), located 18 miles offshore of Louisiana in the Gulf of Mexico. We assume that this existing deepwater port is already compliant with many of the proposed regulations and also assume that LOOP represents industry standards. Therefore, the baseline we are using to estimate the benefits and costs of this proposed regulation is not the 25-year old regulation, but rather the industry standard established by LOOP. Furthermore, we assume that new deepwater port construction would follow the industry standard. Based upon discussion with industry, we expect two additional deepwater ports would apply for a license within the next decade.

The discounted 10-year cost for this rule is $19,996 (2001 dollars, discounted at 7 percent). The majority of the cost is derived from the regulation's alignment with the OCS regulations, particularly the collection of information burden. Quantitative benefits sum to $4,159 (2001 dollars, discounted at 7 percent). In addition, we also recognize that many of the benefits of the proposed rule cannot be quantified. These qualitative benefits include the removal of any existing regulations that are obsolete or redundant, the improvement in recording safety precautions and training, and others. In particular, industry requested the alignment of its standards with OCS regulations.

INTRODUCTION

The Deepwater Port Modernization Act of 1996, which amends the Deepwater Port Act of 1974 under Title 33 U.S.C. 1504, provides direction to the Coast Guard to revise and streamline deepwater port regulations. In accordance with this Act, the Coast Guard addresses technological advancements and operational experiences gained over the last 25 years that pertain to 33 CFR subchapter NN by proposing to:

1. Simplify the reading of the regulations,
2. Reorganize the regulations, and
3. Remove and revise obsolete or unnecessary regulations.

In addition to the above proposed changes, the Coast Guard proposes to align appropriate regulations with those requirements for fixed Outer Continental Shelf (OCS) facilities under the NPRM for 33 CFR subchapter N.

BACKGROUND

A deepwater port is a structure located beyond the territorial sea and off the coast of the United States that is used to receive, store, and distribute oil to U.S. refineries. Currently, there is only one licensed deepwater port, which is the Louisiana Offshore Oil Port (LOOP), located 18 miles offshore of Louisiana in the Gulf of Mexico. As the only U.S. deepwater port, LOOP is the sole port capable of offloading crude oil from very large crude carriers and ultra large crude carriers. Although LOOP has offloaded over 5 billion barrels of foreign crude oil to date, no major oil spills, fatalities, or major injuries have occurred since the facility's inception in 1978[1].

The original deepwater port regulations (33 CFR Chapter I, subchapter NN parts 148, 149, and 150) have not been updated since their initial promulgation in 1975. Consequently, some parts of these regulations have become obsolete or unnecessary due to changing technology and industry standards.

In 1996, Congress passed the Deepwater Port Modernization Act (Public Law 104-324, title V, sec. 501-508, October 19, 1996), which amended the Deepwater Port Act of 1974 (33 U.S.C. 1501-1524). To update and improve the Deepwater Port Act of 1974, it was deemed necessary to (1) recognize that deepwater ports are generally subject to effective competition from alternate transportation modes, and (2) promote innovation, flexibility, and efficiency in the management and operation of deepwater ports. Through these revisions, the proposed rulemaking would ensure that deepwater ports are not over-regulated compared to the regulation of other modes of importing or transporting oil.

On December 7, 1999, an NPRM revising the regulations for OCS activities in 33 CFR subchapter N was published in the Federal Register[2]. Because of similarities between deepwater ports and OCS facilities, representatives within the deepwater port industry requested an alignment, to the extent practicable, with the OCS regulations. Proposed

[1] Sources: The Coast Guard's MSMS Database November 2000 and http://www.loopllc.com/fl.htm.
[2] 64 FR 68440, December 7,1999.

changes to 33 CFR subchapter NN intend to amend any extensive requirements that may unduly hinder deepwater ports compared to other OCS facilities that transfer oil or hazardous materials in bulk (OHMB).

REGULATORY EVALUATION

The proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget (OMB) has not reviewed it under that Order. Also, it is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). However, a draft Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT follows to clarify the costs and benefits associated with this proposed rule.

PROPOSED CHANGES

The proposed changes include those to clarify the language and structure of the regulations and also those to update the regulations with current technology and industry standards. For a complete list of the proposed changes to 33 CFR Parts 148, 149, and 150, refer to Appendices A and B. Included in Appendix A are the proposed changes exclusive to deepwater ports, while Appendix B includes the changes in the proposed rulemaking for 33 CFR subchapter NN that are aligned with 33 CFR subchapter N.

The benefit and cost analysis depicts only proposed changes that would have a quantitative impact[3] on deepwater ports. Furthermore, the following are assumed:

1. The benefits and costs of this proposed rulemaking are calculated for a 10-year period, between 2001 and 2010.

2. In accordance with current OMB guidance, total program costs and benefits are calculated as a net present value (PV), discounted at 7 percent.

3. The industry standard is applied as the baseline for determining the proposed regulation's benefits and costs. The existing deepwater port population, LOOP, has exhibited a record of safety with no major incidents and few minor incidents since its inception in 1978. Thus, we assume that new industry entrants would desire this same standard and safety record.

4. Although the deepwater population has remained constant over the last 25 years, we expect two applicants within the next decade. Thus, the affected population in this study includes the existing deepwater port (LOOP) and these possible industry entrants. We assume the new deepwater ports would enter the industry in 2002 and 2005.

[3] The estimates for the quantitative impacts are derived from industry and the Coast Guard.

COSTS INCURRED

The existing deepwater port is already compliant with many of the proposed regulations[4]. The proposed changes that would have a quantitative impact on LOOP are:

1. *Periodic weight testing for survival craft.* Proposed §150.510 would require the facility to perform periodic weight testing of survival craft falls if a survival craft has a fall replaced or every 5 years, whichever comes first. This weight testing would ensure the delivery system is operational and ready for use in an emergency. We estimate the cost is $500 per facility every 5 years. We assume the weight testing would be performed in 2001 and 2006.

2. *Marking of the general alarm.* Proposed §149.670 would require the facility to change the marking of the general alarm to yellow letters on a red background. We estimate the one-time cost to be $25.

In addition to the existing population, costs are also considered for new deepwater ports, which would enter the industry during the time span of the analysis. We expect that these entrants would follow industry standards, and would, therefore, face the same costs as the existing industry. Furthermore, we expect that one deepwater port would enter the industry in each of the years 2002 and 2005.

Although the application fee has increased from $100,000 to $350,000, we do not include it as an additional cost under current regulations. The costs incurred by the Federal Government in processing an application would be charged to the application fee until it is exhausted. If the fee is exhausted and the Federal Government incurs further processing costs, the applicant would be charged the additional costs. Because it is determined that the cost of review has increased to at least $350,000, this application fee increase would not affect the total amount that the deepwater port applicant would pay.

Proposed changes that would affect new industry entrants are the following:

1. *Periodic weight testing for survival craft.* As noted above, we estimate the cost is $500 per facility every 5 years. It is assumed that the weight testing for survival craft would be performed in the year the new deepwater port enters the industry and performed again 5 years hence.

2. *Marking of the general alarm.* As noted above, we estimate the one-time cost to be $25. Furthermore, we assume the general alarms marking would be completed in the year the new deepwater port enters the industry.

TOTAL INDUSTRY COSTS

Although we assume the existing industry is compliant with the majority of the proposed rules, we do not assume that it meets the exact collection of information requirements. Therefore, we have integrated the costs associated with the paperwork burden into the total industry costs.

[4] Source: Correspondence with LOOP management, January 2001.

The total cost is calculated in the following table:

Table 1. Total Industry Cost* of Proposed Rule: Non-discounted & Discounted

Year	Annual Cost			Discounted Cost		
	*Cost Burden***		*Paperwork Burden****	*Cost Burden*		*Paperwork Burden*
	Weight-Testing	*Alarm Marking*		*Weight-Testing*	*Alarm Marking*	
2001	$500	$25	$4,268	$500	$25	$4,268
2002	500	25	4,669	467	23	4,364
2003	0	0	802	0	0	700
2004	0	0	802	0	0	655
2005	500	25	5,070	382	19	3,868
2006	500	0	1,203	357	0	858
2007	500	0	1,203	333	0	802
2008	0	0	1,203	0	0	749
2009	0	0	1,203	0	0	700
2010	500	0	1,203	272	0	654
Subtotals	*$3,000*	*$75*	*$21,626*	*$2,311*	*$67*	*$17,618*
	$3,075		*$21,626*	*$2,378*		*$17,618*
Total Industry Cost	***$24,701***			***$19,996 (PV)***		

*Costs are rounded to the nearest dollar.

** The cost burden is a summary of the costs depicted in the section titled "Costs Incurred."

*** Further details concerning the paperwork burden are described in the section titled "Summary of the Collection of Information" and in Appendix C.

Thus, the non-discounted cost for this proposed rule would total $24,701, and the discounted 10-year cost for this rule would be $19,996.

BENEFITS ACCRUED

The proposed rulemaking is consistent with the deepwater port industry's request to align its regulations with the OCS regulations. Hence, the accumulated benefits are the result of updating the regulations and removing any that are obsolete or unnecessary. Many of these proposed changes would neither change existing practice nor have a quantitative impact on the existing deepwater port because the original regulations are obsolete.

Although the collection of information requirements represent a majority of the costs of this proposed regulation, they also represent a qualitative benefit. The Coast Guard considers that the proposed rule aids its ability to enforce regulations, thereby promoting the safety of life and property in deepwater ports. Furthermore, by deepwater ports recording training and safety inspection information, their own safety level would increase by improving accident readiness, noise-level awareness, and lifesaving equipment preparation.

Some of the proposed changes, which are simply a sunk cost for the existing deepwater port, represent a quantitative benefit for the two new deepwater ports that are expected to enter the industry. These benefits include (1) lowering the requirement for fire axes from eight to two, (2) removing the requirement for the carriage of spare charges for 50 percent of all portable extinguishers, and (3) removing the requirement to have appropriately clothed personnel during aircraft operations. Furthermore, new deepwater ports would also accrue benefits due to the decrease in the collection of information requirements in the license application process. These reductions include (1) removing the requirement for various financial information, (2) reducing the number of application copies, and (3) removing the preliminary report requirement for site evaluation and pre-construction testing. The quantitative benefits are as follows:

(1) \$35/fire axe × 6 fire axes = \$210
(2) \$20/spare charge × 10 spare charges = \$200
(3) \$50/aircraft clothing × 4 outfits = \$200
(4) \$48/hour × 10 hours/financial information = \$480
(5) \$29/hour × 40 applications × 1 hour/application = \$1,160
(6) \$40/hour × 5 hours/preliminary report = \$200

Table 2. Total Industry Benefits* of Proposed Rule: Non-discounted & Discounted

Year	Annual Benefits	Discounted Benefits
2001	\$0	\$0
2002	2,450	2,290
2003	0	0
2004	0	0
2005	2,450	1,869
2006	0	0
2007	0	0
2008	0	0
2009	0	0
2010	0	0
Total Industry Benefits	***\$4,900***	***\$4,159 (PV)***

*Benefits are rounded to the nearest dollar. These benefits follow the assumption that a new deepwater port would apply for a license in each of the years 2002 and 2005.

SMALL ENTITIES

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we considered whether the proposed rule would have a significant economic impact on a substantial number of small entities. Small entities include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of fewer than 50,000.

According to the Small Business Administration's definition[5], LOOP LLC does not qualify as a small entity because its annual gross revenue exceeds $18.5 million. Furthermore, we assume that new industry entrants would be comparable in size to LOOP, and thus, would not be small businesses. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

COLLECTION OF INFORMATION

This proposed rule would call for collections of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520). As defined in 5 CFR 1320.3(c), collection of information comprises reporting, recordkeeping, monitoring, posting, labeling, and other similar actions. The collections would parallel, as appropriate, the requirements for fixed OCS facilities in the NPRM for subchapter N. The estimates cover the time for reviewing instructions, searching existing sources of data, gathering and maintaining the data needed, and completing and reviewing the collection. The Coast Guard would request a revision of the affected collections of information under OMB control numbers 2115-0569 and 2115-0580.

SUMMARY OF THE COLLECTIONS OF INFORMATION

The proposed rule affects two existing collections of information. Each collection is discussed separately in this summary section. Also, while the benefit and cost analysis described above is a 10-year analysis, the collections depicted below have only a 3-year timeframe.

Collection OMB 2115-0569

The proposal would add requirements to an existing collection of information (Collection OMB 2115-0569), which result from the alignment with the proposed fixed OCS facility regulations in the NPRM for subchapter N. The burden is incorporated into the section of the analysis titled "Total Industry Costs." In addition to affecting the LOOP, we assume the collection would affect a new industry entrant in 2002. The additional requirements would be as follows:

a) Record all onboard training (abandonment drills, fire drills, other lifesaving appliances, and musters) in an official logbook (§150.250),

[5] The Small Business Administration defines a "small business" as one with annual revenue that meets or is below the established size standard, which is $18.5 million for NAICS 488320 Marine Cargo Handling.

b) Maintain a report of monthly tests and inspections of all lifesaving equipment under §143.615 (§150.510),
c) Maintain weight-testing written attestments and a report of all inspections (§150.510),
d) Maintain records of annual tests and inspections of hand-portable fire extinguishers, semi-portable fire extinguishers, and fixed fire extinguishing systems (§150.510),
e) Establish a written program to reduce the risk of naturally occurring radioactive material (NORM) if there are operations that introduce NORM (§150.600),
f) Establish a written program to prevent exposure from blood-borne pathogens or other infectious material (§150.600),
g) Before doing work on equipment that is disconnected from the power source, place a tag at the location where the power is disconnected (§150.600),
h) Conduct noise-level surveys, and maintain results (§150.600),
i) Issue confined-space entry permits (§150.600),
j) Provide a certificate for all confined-space entry training (§150.600),
k) Provide a certificate for all offshore competent persons (§150.600),
l) Establish a written program for confined-space entry (§150.600), and
m) Establish a written hazard communication program (§150.600).

NEED FOR INFORMATION: The primary use of this information would determine if a deepwater port is in compliance with the requirements.

PROPOSED USE OF INFORMATION: This information can help determine, in the event of a casualty, whether failure to meet these regulations contributed to the casualty.

DESCRIPTION OF THE RESPONDENTS: Licensees or operators of deepwater ports.

NUMBER OF RESPONDENTS: Two.

FREQUENCY OF RESPONSE: Varies.

BURDEN OF RESPONSE: Table 3 summarizes the collection of information burden. Details of each collection follow.

Table 3. Collection of Information* Summary

Year	One-Time Hours	Annual Hours	Total Hours per year	Total Cost per year
1	80.83	12.22	93.05	$4,268
2	80.83	24.44	105.27	$4,669
3	0	24.44	24.44	$802
Total	*161.66 hours*	*61.10 hours*	*222.76 hours*	*$9,739*
Annual Average	***53.89 hours***	***20.37 hours***	***74.25 hours***	***$3,246***

*Hours are rounded to the nearest hundredth.

a) Onboard Training Record. The burden of this submission is information that must be recorded monthly by the person in charge. A report must be submitted to the owner or operator, who must retain it for inspection by the Coast Guard, upon request. The average annual recordkeeping burden and cost to deepwater ports is estimated to be 1.67 hours and $55.

- Applies to approximately 30 records of drills and training per year.
- An estimated 2 minutes or 0.0333 hours of response time per report is applied.
- Collection applies to 1 deepwater port during the first year, and applies to 2 deepwater ports during the 2nd and 3rd years.
- Review cost per hour = $33

Table 4. Onboard Training Record Collection.

Year	Logbook Entries	Hours per year	Cost per year
1	30	1	$33
2	60	2	$66
3	60	2	$66
Total	150 entries	5	$165
Annual Avg.	***50 entries***	***1.67 hours***	***$55***

b) Report of Monthly Tests and Inspections of all Lifesaving Equipment. The burden of information submission includes a monthly report of inspection and a statement of the condition of each item of lifesaving equipment kept on the facility and made available for review by the Coast Guard. The average annual report and recordkeeping burden and cost would be 5.33 hours and $176. This was derived using the following cost factors:

Reporting

- Each port completes monthly reports. An estimated 15 minutes or 0.25 hours of response time per report and 1 minute or 0.0167 hours of recordkeeping time per report is applied.
- Collection applies to 1 deepwater port during the first year, and applies to 2 deepwater ports during the 2nd and 3rd years.
- Review cost per hour = $33

Table 5. Lifesaving Equipment Report Collection.

Year	Reports	Hours per year	Cost per year
1	12	3.20	$106
2	24	6.40	$211
3	24	6.40	$211
Total	60 reports	16.00	$528
Annual Avg.	***20 reports***	***5.33 hours***	***$176***

c) Weight-Testing Written Attestments. The burden of information submission is the written attestment statement that must be completed every time a fall is replaced or every 5 years, whichever comes first. The average annual report burden and cost to deepwater ports are estimated to be 0.0555 hours and $1.

- Applies to one port every 5 years. An estimated 5 minutes or 0.0833 hours of response time per report is applied.
- Collection applies to 1 deepwater port during the 1st year, and applies to 1 deepwater port during the 2nd year.
- Review cost per hour = $27

Table 6. Weight-Testing Collection.

Year	Weight Attestment	Hours per year	Cost per year
1	1	0.0833	$2
2	1	0.0833	$2
3	0	0	0
Total	2 attestments	0.1666	$4
Annual Avg.	***0.6667 attestments***	***0.0555 hours***	***$1***

d) Firefighting Equipment Records. The burden of information submission is a record of equipment that must be inspected annually and kept on the facility for at least 2 years. The average annual report and recordkeeping burden and cost to deepwater ports are estimated to be 0.4445 hours and $15. This was derived using the following cost factors:

- Applies to one port completing an annual test. An estimated 15 minutes or 0.25 hours of response time per report and 1 minute or 0.0167 hours of recordkeeping is applied.
- **Collection applies to 1 deepwater port during the 1st year, and applies to 2 deepwater ports during the 2nd and 3rd years.**
- **Review cost per hour = $33**

Table 7. Firefighting Equipment Records Collection.

Year	Annual Records	Hours per year	Cost per year
1	1	0.2667	$9
2	2	0.5333	$18
3	2	0.5333	$18
Total	5 records	1.3334	$45
Annual Avg.	***1.6667 records***	***0.4445 hours***	***$15***

e) NORM Written Program. We assume this collection is not applicable to deepwater ports.

f) Blood-Borne Pathogens Written Program. We assume this collection is not applicable to deepwater ports.

g) Tagout. Before conducting work on equipment that must be disconnected from the power source, it is necessary to place a tag at the location where the power is disconnected. The average annual report burden and cost to deepwater ports is estimated to be 0.5556 hours and $15. This was derived using the following cost factors:

- An estimated 1 minute or 0.0167 hours of response time per tag is assumed. Also, we assume approximately 20 tags per deepwater port per year.

- Collection applies to 1 deepwater port during the 1st year, and applies to 2 deepwater ports during the 2nd and 3rd years.
- Review cost per hour = $27

Table 8. Tagout Collection.

Year	Tags	Hours per year	Cost per year
1	20	0.3333	$9
2	40	0.6667	$18
3	40	0.6667	$18
Total	100 tags	1.6667	$45
Annual Avg.	***33.33 tags***	***0.5556 hours***	***$15***

h) Noise-Level Surveys. The average annual report burden and cost to deepwater ports is estimated to be 5 hours and $165. This was derived using the following cost factors:

- An estimated 30 minutes or 0.5 hours of response time per noise-level survey is assumed. We assume approximately 6 surveys per deepwater port per year.
- Collection applies to 1 deepwater port during the 1st year, and applies to 2 deepwater ports during the 2nd and 3rd years.
- Review cost per hour = $33

Table 9. Noise-Level Collection.

Year	Surveys	Hours per year	Cost per year
1	6	3	$99
2	12	6	$198
3	12	6	$198
Total	30 surveys	15	$495
Annual Avg.	***10 surveys***	***5 hours***	***$165***

i) Confined-Space Entry Permit. The burden of information completion is a requirement that must be complied with before entering a confined space. The information must be available for inspection by the Coast Guard upon request. The average annual reporting and recordkeeping burden and cost to deepwater ports are estimated to be 7.33 hours and $242. This was derived using the following cost factors:

- An estimated 10 minutes or 0.1667 hours of response time and 1 minute or 0.0167 hours of recordkeeping per record was applied. We assume the record would need to be verified approximately twice per month.
- Collection applies to 1 deepwater port during the first year, and applies to 2 deepwater ports during the 2nd and 3rd years.
- Review cost per hour = $33

Table 10. Confined-Space Entry Collection.

Year	Records	Hours per year	Cost per year
1	24	4.40	$145
2	48	8.80	$290
3	48	8.80	$290
Total	120 Records	22	$725
Annual Avg.	***40 Records***	***7.33 hours***	***$242***

j) Confined-Space Entry Training Certificate. The burden of information submission is not an annual requirement. A person with a certificate of training must present it for inspection upon request. The average annual recordkeeping burden and cost to deepwater ports is estimated to be 0.4443 hours and $15. This was derived using the following cost factors:

- An estimated 5 minutes or 0.0833 hours of response time per certificate is applied. We assume 8 people to be certified on each facility.
- Collection applies to 1 deepwater port during the 1st year, and applies to 1 deepwater port during the 2nd year.
- Review cost per hour = $33

Table 11. Confined-Space Training Collection.

Year	Certificates	Hours per year	Cost per year
1	8	0.6664	$22
2	8	0.6664	$22
3	0	0	0
Total	16 certificates	1.3328	$44
Annual Avg.	***5.33 certificates***	***0.4443 hours***	***$15***

k) Offshore Competent Persons Certificates. The burden of information submission is not an annual requirement. A person with a certificate must present it for inspection upon request. The average annual recordkeeping burden and cost to deepwater ports is estimated to be 0.1111 hours and $4. This was derived using the following cost factors:

- An estimated 5 minutes or 0.0833 hours of response time per certificate is applied.
- We assume 2 offshore persons per facility.
- Collection applies to 1 deepwater port during the first year, and applies to 1 deepwater port during the 2nd year.
- Review cost per hour = $33

Table 12. Offshore Certificate Collection.

Year	Certificates	Hours per year	Cost per year
1	2	0.1667	$5.50
2	2	0.1667	$5.50
3	0	0	0
Total	4 certificates	0.3334	$11
Annual Avg.	***1.33 certificates***	***0.1111 hours***	***$4***

l) Confined-Space Entry Written Program. The burden of information submission is a written program and is a one-time cost. The average annual report burden and cost to deepwater ports is estimated to be 26.6667 hours and $1,280. This was derived using the following cost factors:

- An estimated 40 hours of response time per program is assumed.
- Collection applies to 1 deepwater port during the 1st year and applies to 1 deepwater port during the 2nd year.
- Review cost per hour = $48

Table 13. Confined-Space Program Collection.

Year	Confined-Space Program	Hours per year	Cost per year
1	1	40	$1,920
2	1	40	$1,920
3	0	0	0
Total	2 programs	80	$3,840
Annual Avg.	***0.6667 programs***	***26.6667 hours***	***$1,280***

m) Hazard Communication Written Program. The burden of information submission is a written program that must be supplemented as necessary to address each hazardous material newly introduced to the facility. This program is a one-time cost. The annual report burden and cost to deepwater ports is estimated to be 26.6667 hours and $1,280. This was derived using the following cost factors:

- An estimated 40 hours of response time per report is applied.
- Collection applies to 1 deepwater port during the 1st year, and applies to 1 deepwater port during the 2nd year.
- Review cost per hour = $48

Table 14. Hazard Communication Program Collection.

Year	Hazard Program	Hours per year	Cost per year
1	1	40	$1,920
2	1	40	$1,920
3	0	0	0
Total	2 programs	80	$3,840
Annual Avg.	***0.6667 programs***	***26.6667 hours***	***$1,280***

ESTIMATE OF TOTAL ANNUAL BURDEN:

Average annual respondents.....2
Average annual responses 164
Average annual hour burden.....74
Average annual cost.....$3,246

Collection OMB 2115-0580

In addition to the above collection, the proposal would affect another already approved collection (Collection OMB 2115-0580). The estimate is based upon the assumption that one license application for a new deepwater port would be received in 2002, which is within the time scope of the collection's 3-year analysis. The burden is not incorporated into the "Total Industry Costs" because it is not a new cost. Instead, the proposed regulation reduces the requirements for a deepwater port license applicant. Therefore, the associated benefits are reflected in the section titled, "Benefits Accrued." The proposed requirements include the following:

a) License application (§§148.105, 148.107, 148.115), and
b) Notice and report for site evaluation and pre-construction testing (§§148.405, 148.415).

NEED FOR INFORMATION: The primary use of this information would determine if a deepwater port applicant meets the necessary requisites.

PROPOSED USE OF INFORMATION: The information determines whether a proposed deepwater port is constructed.

DESCRIPTION OF THE RESPONDENTS: Deepwater port applicants.

NUMBER OF RESPONDENTS: One.

FREQUENCY OF RESPONSE: Once.

BURDEN OF RESPONSE:

a) License Application. The burden of information submission is not an annual burden. Information must be supplied when an owner applies for a license to own, construct, and operate a deepwater port. The majority of the hours are derived from the compilation of the operations manual and the environmental analysis. Burden and costs were derived using the following cost factors:

- One deepwater port application
- $48 per hour
- 200 hours per license application
- 1 license × 200 hours = 200 hours total
- 200 hours × $48 per hour = $9,600
- 3-year average = 66.67 hours per year and $3,200 per year

b) Additional License Information. It is the responsibility of the license applicant to make available particular documents within 4 years of the license application date. Burden and costs for this annual requirement were derived using the following cost factors:

- One deepwater port application
- $34 per hour
- 1 hour per year
- 1 license × 1 hour per year × 3 years = 3 hours total
- 1 hour × $34 per hour × 3 years = $102 total
- 3-year average = 1 hour per year and $34 per year

c) Application Copies. The burden of information submission is not an annual burden. Application copies must be supplied when an owner applies for a license to own, construct, and operate a deepwater port. Approximately 19 copies must be delivered to the Commandant, while 1 copy must be delivered to the U.S. Army Corps of Engineers. We expect one deepwater port application within the next 3 years. Burden and costs were derived using the following cost factors:

- One deepwater port application
- 20 application copies
- $29 per hour
- 1 hour per application copy
- 20 copies × 1 hour = 20 hours total

- 20 hours × $29 per hour = $580 total
- 3-year average = 6.67 hours per year and $193 per year

d) Notice and report for site evaluation and pre-construction testing. The burden of information submission is not an annual burden. The notice and report must be supplied when an owner applies for a license to own, construct, and operate a deepwater port. Burden and costs were derived using the following cost factors:

- One deepwater port application. Therefore, one written notice and one final report.
- 2 hours per written notice
- 10 hours per final report
- $40 per hour
- 12 hours total
- 12 hours × $40 per hour = $480 total
- 3-year average = 4 hours per year and $160 per year

ESTIMATE OF TOTAL ANNUAL BURDEN:

Average annual respondents.....1
Average annual responses 8
Average annual hour burden.....78
Average annual cost.....$3,587

FEDERALISM

We have analyzed this proposed rule under Executive Order (E.O.) 13132, Federalism, and have determined that it does not have implications for federalism under that Order. This rulemaking applies to deepwater ports only in waters beyond the territorial limits of the United States (33 U.S.C. 1501(a)(1)). As regulation of these deepwater ports is outside the jurisdiction of the States, this rulemaking would not preempt State law.

UNFUNDED MANDATES

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their regulatory actions not specifically required by law. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100 million or more in any one year. Although this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

TAKING OF PRIVATE PROPERTY

This proposed rule would not effect a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

CIVIL JUSTICE REFORM

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

PROTECTION OF CHILDREN

We have analyzed this proposed rule under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

INDIAN TRIBAL GOVERNMENTS

This proposed rule does not have tribal implications under E.O. 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

ENERGY EFFECTS

We have analyzed this proposed rule under E.O. 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under E.O. 13211.

ENVIRONMENT

Since LOOP's inception in 1978, the facility has had no major oil spills, fatalities, or major injuries[6]. In addition, the proposed changes in 33 CFR subchapter NN should not affect the current practice in environmental, health, and safety regulations for deepwater ports. Many of these regulations would continue to be enforced by the facility's deepwater port operations manual, which is a licensing requirement of the facility. We considered the environmental impact of this proposed rule and concluded that, under paragraphs (34)(a),

[6] MSMS Database, November 2000.

(c), (e), and (i), of Section 2.B.2 and Figure 2-1 of the NEPA Implementing Procedures, Commandant Instruction M16475.lC, this rule is categorically excluded from further environmental documentation. The environmental impact associated with requiring additional equipment, training, and improved facilities under this rulemaking would be insignificant. The environmental impact of an individual deepwater port is assessed under the licensing process. A "Categorical Exclusion Determination" is available in the docket where indicated under ADDRESSES.

APPENDIX A

PROPOSED CHANGES IN SUBCHAPTER NN
(NOT INCLUDING ALIGNMENTS WITH SUBCHAPTER N)

EXISTING CITE	PROPOSED CITE	CHANGE
§§148.3 and 148.5	**§148.5**	Combine the definitions to simplify the reading of the regulations.
§148.109(e)(7), 148.109(e)(9) through 148.109(e)(13)	**§148.105**	Remove requirement for various financial information on the application.
148.107 (a-b)	**§148.115**	Reduce the number of application copies required in these sections to 16, plus 2 copies for each adjacent coastal State.
§148.107(c)	**§148.125**	Increase the nonrefundable application fee from $100,000 to $350,000 to account for inflation.
§149.311	**§149.125**	Remove redundant wording that states the malfunction detection system must be monitored at all times.
148.507 (c)	**§148.415**	Remove the preliminary report requirement for site evaluation and pre-construction testing at potential deepwater port locations.
§149.211	**[removed]**	Remove the requirement for installed mountings for emergency equipment because this is already addressed in subsequent sections of the subchapter. *(This section has been deleted.)*
§149.215	**[removed]**	Remove the requirement for installing certain outside equipment (e.g., radar antennae) to avoid interference with helicopter operations because it is already addressed in NFPA 407, which has been incorporated by reference in this NPRM. *(This section is deleted.)*
§149.515	**§149.405**	Lower the requirement for fire axes from eight to two.
§149.479	**[removed]**	Remove the requirement for an international shore connection. *(This section has been deleted.)*

APPENDIX A (continued)

EXISTING CITE	PROPOSED CITE	CHANGE
§149.481	**[removed]**	Remove the option to use halogenated fixed firefighting system agents because they are no longer considered safe. *(This reference has been deleted.)*
§149.505	**149.405**	Remove the requirement for the carriage of spare charges for 50 percent of all portable extinguishers.
§149.793	**§149.575**	Clarify language by changing "piles and pile clusters" to "objects."
§149.203	**§149.615**	Remove the requirement to submit drawings and specifications on 105mm negatives. Instead, may use most feasible materials.
§§149.209, 150.119, & 150.121	**§§149.650**	Combine for easier reading. Also, allow a licensee to request the use of an alternate classification society's rules for building a single-point mooring.
§149.209	**§149.650**	Remove requirement that the Commandant be given written confirmation of the licensee's receipt of ABS certificates on SPMs.
§149.543	**§149.670**	Change marking of the general alarm to yellow letters on a red background.
§149.539	**§149.695**	Change the specific requirements for portable lights to require the use of lights and supply cords designed for the environment where they are used.
§150.105	**§150.10**	No longer require that the operations manual be prepared in accordance with the "Guidelines for Preparation of a Deepwater Port Operations Manual."
[new]	**§150.15**	Include list of items that the operations manual must include.
150.106	**§150.20**	Reduce the number of operations manual copies to the Commandant from 25 to 5.
§150.123		Move the requirement for weather monitoring to the operations manual. *(This section has been deleted from the CFR.)*

APPENDIX A (continued)

EXISTING CITE	PROPOSED CITE	CHANGE
§150.125	[removed]	Remove the requirement for water depth measurements because it is unnecessary due to the design of deepwater ports. *(This section has been removed from the CFR.)*
§150.211	§150.235	Change required qualifications for a mooring master to also include the optional qualification of being a master of ocean steam or motor vessels of limited tonnage or chief mate of ocean, steam, or motor vessels of unlimited tonnage with 1-year experience in charge of an offshore crude oil lightering operation.
§150.419	[removed]	Move requirement for stopping oil transfer operations to the operations manual. (*This section has been deleted from the CFR.)*
§150.513	[removed]	Remove the requirement concerning sanitation because it is already addressed by industry standards. *(This section has been deleted from the CFR.)*
§150.516	[removed]	Remove the requirement to have appropriately clothed and sufficiently qualified personnel during aircraft operations because it is unnecessary and impractical. *(This section has been deleted from the CFR.)*
§150.521	[removed]	Move housekeeping section to the operations manual. *(This section has been deleted from the CFR.)*
§150.523	[removed]	Move illumination section to the operations manual. *(This section has been deleted from the CFR.)*
§ 150.707	[removed]	Remove the requirement to submit an oil throughput report to the Deepwater Port Liability Fund. *(This section has been deleted from the CFR.)*
§ 150.757	[removed]	Remove the requirement to maintain an oil throughput log. *(This section has been deleted from the CFR.)*
§150.835	§ 150.835	Remove the written confirmation to the Coast Guard on subversive activities and sabotage.

APPENDIX B

Changes in Subchapter NN that are aligned with Subchapter N

Subchapter NN Cite		Aligned Subchapter N Cite
Existing	**Proposed**	**Change**
§§149.521 - 149.537	**§149.305**	§§143.810 – 143.885 & 143.910 – 143.925: General requirements for lifesaving equipment. The current deepwater port can keep existing equipment unless it undergoes major repair, alteration, or modification.
§§149.481, 149.483, 149.491 - 149.517	**§149.405**	§§143.1010 – 143.1050 & 143.1060 – 143.1063: General requirements for firefighting and fire-protection equipment. The existing deepwater port (LOOP) would be allowed to use its currently installed system until replaced.
[new]	**§149.640**	§§143.1115 – 143.1135 except 143.1125: Requirements for systems fire protection. The existing deepwater port is allowed to use its current system until a major repair, alteration, or conversion occurs after the effective date of the final rule.
§§149.421, 149.423, 149.431, 149.433, and 149.441	**§149.690**	§§143.1220 – 143.1236: Means of escape, personnel landings, guardrails and similar devices, and noise limits. No change except that it eliminates an exemption from having personnel landings if the port has a personnel basket transfer system. Noise limits do not apply to facilities constructed before the date of the final rule.
[new]	**§150.250**	§§143.510 & 143.515: Required emergency training and instruction for personnel.
[new]	**§150.505**	§§143.610 – 143.645: Maintenance and repair of lifesaving, firefighting, and other emergency equipment.
[new]	**§150.510**	§§143.710 – 143.765: Tests and inspections of lifesaving, firefighting, and other emergency equipment.
§150.509	**§150.600**	§142: Requirements for workplace safety and health. Includes confined space and offshore competent person requirements.

APPENDIX C
Paperwork Burden for Each Deepwater Port

Table C1. One-Time Paperwork Burden per Deepwater Port

Item	Responses/Year	Hours/Response	Hourly Wage ($)	Hours/Year	Cost/Year
Confined-Space Entry Training Certificate	8	0.08	$33	0.67	$22
Offshore Competent Persons Certificates	2	0.08	33	0.17	6
Confined-Space Entry Written Program	1	40.00	48	40.00	1,920
Hazard Communication Written Program	1	40.00	48	40.00	1,920
Total One-Time Hour and Cost Burden per Deepwater Port				***80.83***	***$3,867***

Table C2. Annual Paperwork Burden per Deepwater Port

Item	Responses/Year	Hours/Response	Hourly Wage ($)	Hours/Year	Cost/Year
Onboard Training Record	30	0.03	$33	1.00	$33
Monthly Tests and Inspections of Lifesaving Equipment	12	0.27	33	3.20	106
Firefighting Equipment Records	1	0.27	33	0.27	9
Tagout	20	0.02	27	0.33	9
Noise-Level Survey	6	0.50	33	3.00	99
Confined-Space Entry Permit	24	0.18	33	4.40	145
Weight Testing Written Attestment	0.2	0.08	27	0.02	0
Total Annual Hour and Cost Burden per Deepwater Port				***12.22***	***$401***

Appendix C (continued)
Paperwork Burden for the Deepwater Port Industry

Table C3. Summary: One-Time Paperwork Burden for Deepwater Port Industry

YEAR	Number of Deepwater Ports	One-Time Hours	One-Time Cost
2001	1	80.83	$3,867
2002	1	80.83	3,867
2003	--	--	--
2004	--	--	--
2005	1	80.83	3,867
2006	--	--	--
2007	--	--	--
2008	--	--	--
2009	--	--	--
2010	--	--	--

Table C4. Summary: Annual Paperwork Burden for Deepwater Port Industry

YEAR	Number of Deepwater Ports	Annual Hours per Deepwater Port	Annual Cost per Deepwater Port	Total Annual Hours	Total Annual Cost
2001	1	12.22	$401	12.22	$401
2002	2	12.22	401	24.44	802
2003	2	12.22	401	24.44	802
2004	2	12.22	401	24.44	802
2005	3	12.22	401	36.66	1,203
2006	3	12.22	401	36.66	1,203
2007	3	12.22	401	36.66	1,203
2008	3	12.22	401	36.66	1,203
2009	3	12.22	401	36.66	1,203
2010	3	12.22	401	36.66	1,203

Appendix C (continued)
Paperwork Burden Summary for the Deepwater Port Industry

Table C5. Paperwork Burden Summary (Including both one-time burdens and annual burdens for industry)

YEAR	Annual Hours	Annual Cost	One-Time Hours	One-Time Cost	Total Hours	Total Nominal Cost	Total PV Cost
2001	12.22	$401	80.83	$3,867	93.05	$4,268	$4,268
2002	24.44	802	80.83	3,867	105.27	4,669	4,364
2003	24.44	802	0.00	0	24.44	802	700
2004	24.44	802	0.00	0	24.44	802	655
2005	36.66	1,203	80.83	3,867	117.49	5,070	3,868
2006	36.66	1,203	0.00	0	36.66	1,203	858
2007	36.66	1,203	0.00	0	36.66	1,203	802
2008	36.66	1,203	0.00	0	36.66	1,203	749
2009	36.66	1,203	0.00	0	36.66	1,203	700
2010	36.66	1,203	0.00	0	36.66	1,203	654
Total Hour and Cost Burden for Deepwater Port Industry					***547.96***	***$21,626***	***$17,618 (PV)***